

APPEAL NO. 041858
FILED SEPTEMBER 8, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 5, 2004. The hearing officer resolved the disputed issues by deciding that the compensable injury of _____, does not include the thoracic spine, and that the appellant (claimant) did not have disability resulting from the _____, compensable injury. The claimant appealed, disputing both the extent-of-injury and disability determinations. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that on _____, the claimant sustained a compensable injury. At issue was whether the compensable injury includes the thoracic spine and whether the claimant had disability resulting from the injury sustained on _____.

The hearing officer did not err in determining that the claimant's _____, compensable injury does not extend to and include the thoracic spine; and that she did not have disability. The claimant had the burden of proof on those issues. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). The extent-of-injury and disability issues presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). This includes medical evidence. The hearing officer noted that the greater weight of credible evidence does not support that the compensable injury includes the thoracic spine and that the claimant failed to prove any period of disability resulting from the compensable injury. The hearing officer was acting within his province as the fact finder in resolving the evidence in the manner that he did and nothing in our review of the record demonstrates that the hearing officer's determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Margaret L. Turner
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Edward Vilano
Appeals Judge